

83-96-I

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August 16, 1983

Mr. Walter A. Upson, Inspector
Electricians Board
Hayes Safety Building
Hazen Drive
Concord, New Hampshire 03301

Re: Inspection Authority

Dear Mr. Upson:

This is in response to your memorandum of July 20, 1983, in which you have inquired about the extent of the inspection authority granted to Board of Electricians Inspectors pursuant to RSA 319-C:5. You have specifically inquired whether an inspector, if he suspects that wiring is being altered or installed by an owner of rental property, may enter the property to determine if a violation of the statute has occurred. My general response is that unless the owner of the property has given his permission for entry, the electrical inspector may not "readily" enter the property to perform an inspection.

An initial consideration under RSA 319-C:5, II is whether the suspected electrical installation is one which is subject to rules adopted under RSA 319-C:6-a. The relevant provision of section 6-a allows the Board to adopt rules relating to professional standards required to be met by each licensee. See RSA 319-C:6-a, VII. However, in the circumstance which you pose, the individual involved is not a licensee and therefore would not be subject to the rules promulgated under RSA 319-C:6-a, VII. I also note that RSA 319-C:3, VIII exempts from the coverage of Chapter 319-C:



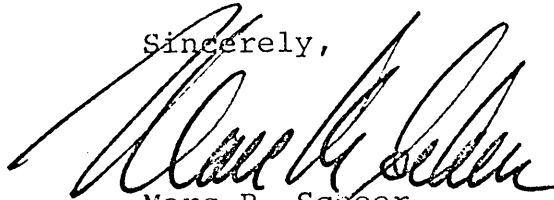
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"Regular employees of owners or lessees of real property doing incidental electrical work, or persons whose occupation is the doing of miscellaneous jobs of manual labor in the course of which some incidental electrical work is done."

Thus, it must be determined prior to solicitation of permission to inspect that the particular electrical installation involved is subject to the Board's authority.

If it is determined that the installation is subject to RSA 319-C, then the electrical inspector may inspect the property provided he has received the owner's permission. The inspector must identify himself to the owner, and inform the owner of the nature and purpose of the inspection. Once these disclosures have been made, then it is up to the owner whether or not he will grant permission. If the owner does not grant permission, then the inspector will have to obtain a search warrant from an impartial magistrate after making appropriate showings of probable cause. This procedure is necessary by virtue of the fact that performance of electrical work by unlicensed individuals in violation of RSA Chapter 319-C constitutes a criminal offense. See RSA 319-C:15. In the event that permission is not given for inspection, then the obtaining of a search warrant is an essential prerequisite to a valid inspection.

Sincerely,



Marc R. Scheer
Assistant Attorney General
Division of Legal Counsel

MRS/der

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